



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित
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1. इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 7th November, 1966 :—

BILL No. 74 of 1966

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows :—

1. This Act may be called the Companies (Amendment) Act, 1966.

1 of 1956.

2. In section 108 of the Companies Act, 1956,—

(I) for sub-sections (1A), (1B) and (1C), the following sub-sections shall be, and shall be deemed to have been, substituted on the 1st day of April, 1966, namely :—

“(1A) Every instrument of transfer of shares shall be in such form as may be prescribed, and—

(a) every such form shall, before it is signed by or on behalf of the transferor and before any entry is made

Short title.

Amendment of section 108 of the Companies Act, 1956.

(1171)

therein, be presented to the prescribed authority, being a person already in the service of the Government, who shall stamp or otherwise endorse thereon the date on which it is so presented, and

(b) every instrument of transfer in the prescribed form with the date of such presentation stamped or otherwise endorsed thereon shall, after it is executed by or on behalf of the transferor and the transferee and completed in all other respects, be delivered to the company,—

(i) in the case of shares dealt in or quoted on a recognised stock exchange, at any time before the date on which the register of members is closed, in accordance with law, for the first time after the date of the presentation of the prescribed form to the prescribed authority under clause (a) or within two months from the date of such presentation, whichever is later;

(ii) in any other case, within two months from the date of such presentation.

(1B) Notwithstanding anything contained in sub-section (1A), an instrument of transfer of shares, executed before the commencement of section 13 of the Companies (Amendment) Act, 1965, or executed after such commencement in a form other than the prescribed form, shall be accepted by a company,—

31 of 1965.

(a) in the case of shares dealt in or quoted on a recognised stock exchange, at any time not later than the expiry of six months from such commencement or the date on which the register of members is closed, in accordance with law, for the first time after such commencement, whichever is later;

(b) in any other case, at any time not later than the expiry of six months from such commencement.

(1C) Nothing contained in sub-sections (1A) and (1B) shall apply to—

(A) any share—

(i) which is held by a company in any other body corporate in the name of a director or nominee

in pursuance of sub-section (2), or as the case may be, sub-section (3), of section 49, or

(ii) which is held by a corporation, owned or controlled by the Central Government or a State Government, in any other body corporate in the name of a director or nominee, or

(iii) in respect of which a declaration has been made to the Public Trustee under section 153B,

if—

(1) the company or corporation, as the case may be, stamps or otherwise endorses, on the form of transfer in respect of such share, the date on which it decides that such share shall not be held in the name of the said director or nominee or, as the case may be, in the case of any share in respect of which any such declaration has been made to the Public Trustee, the Public Trustee stamps or otherwise endorses, on the form of transfer in respect of such share under his seal, the date on which the form is presented to him, and

(2) the instrument of transfer in such form, duly completed in all respects, is delivered to the—

(a) body corporate in whose share such company or corporation has made investment in the name of its director or nominee, or

(b) company in which such share is held in trust,

within two months of the date so stamped or otherwise endorsed; or

(B) any share deposited by any person with—

(i) the State Bank of India, or

(ii) any scheduled bank, or

(iii) any banking company (other than a scheduled bank) or financial institution approved by the Central Government by notification in the Official Gazette (and any such approval may be accorded so as to be retrospective to any date not earlier than the 1st day of April, 1966), or

(iv) the Central Government or a State Government or any corporation owned or controlled by the Central Government or a State Government, by way of security for the repayment of any loan or advance to, or for the performance of any obligation undertaken by, such person, if—

(1) the bank, institution, Government or corporation, as the case may be, stamps or otherwise endorses on the form of transfer of such share—

(a) the date on which such share is returned by it to the depositor, or

(b) in the case of failure on the part of the depositor to repay the loan or advance or to perform the obligation, the date on which such share is released for sale by such bank, institution, Government or corporation, as the case may be or

(c) where the bank, institution, Government or corporation, as the case may be, intends to get such share registered in its own name, the date on which the instrument of transfer relating to such share is executed by it; and

(2) the instrument of transfer in such form, duly completed in all respects, is delivered to the company within two months from the date so stamped or endorsed.

Explanation.—Where any investment by a company or a corporation in the name of its director or nominee referred to in clause (A) (i) or clause (A) (ii), or any declaration referred to in clause (A) (iii), or any deposit referred to in clause (B), of this sub-section is made after the expiry of the period or date mentioned in clause (a) of sub-section (1B) or after the expiry of the period mentioned in clause (b) of that sub-section, as the case may be, the form of transfer, in respect of the share which is the subject of such investment, declaration or deposit, means the prescribed form;

(C) any share which is held in any company by the Central Government or a State Government in the name of its nominee, except that every instrument of transfer which is executed on or after the 1st day of October, 1966, in respect of any such share shall be in the prescribed form.”;

(II) in sub-section (1D),—

(i) after the words, brackets, figure and letter “or sub-section (1B)”, the words, brackets, figure and letter “or sub-section (1C)”; and

(ii) after the words “as it may deem fit”, the words “whether such application is made before or after the expiry of the periods aforesaid”

Shall be, and shall be deemed to have been, inserted on the 1st day of April, 1966.

3. Notwithstanding any judgment, decree or order of any court Valid-
or tribunal to the contrary, or anything contained in any law for tion.
the time being in force, no order, rule, regulation or appointment
made, direction given or thing done, by the Chairman or any other
member of the Company Law Board, acting individually, before the
commencement of the Companies (Amendment) Act, 1965, shall be
deemed to be invalid, or ever to have become invalid, by reason
only of the fact that such Chairman or other member, acting
individually, had no power to make such order, rule, regulation or
appointment or give such direction or do such thing and every such
order, rule, regulation or appointment made and every such direction
given and thing done shall be deemed to have been made, given or
done, as the case may be, by the Company Law Board.

31 of 1965.

4. (1) The Companies (Amendment) Ordinance, 1966 is hereby Repeal
repealed. and
saving.

11 of 1966.

(2) Notwithstanding such repeal, anything done or any action
taken under the said Ordinance shall be deemed to have been done
or taken under the corresponding provision of this Act, as if this
Act had commenced on the 21st day of September, 1966.

STATEMENT OF OBJECTS AND REASONS

Section 108 of the Companies Act relating to transfer of shares and debentures was amended by the Companies (Amendment) Act, 1965 in pursuance of the recommendations of the Vivian Bose Inquiry Commission. The object of the amendment was to regulate and control the currency of blank transfer of shares. For this purpose new sub-sections (1A) to (1D) were inserted in section 108. These new provisions were brought into force on the 1st of April, 1966. But immediately thereafter, questions arose as to whether the effect of these new provisions was only to regulate and control the currency of blank transfer of shares or to prohibit them altogether. As views were divergent on this point, it was thought that in order to maintain the smooth functioning of the stock-exchanges and capital market it should be made clear that the object underlying the new provisions was not to prohibit blank transfers altogether but only to restrict their currency. By the amendments inserted in section 108 by the amending Act of 1965, some other recommendations of the Vivian Bose Inquiry Commission were also not given effect to. As stock-exchanges and capital market were directly involved in the matter, urgent legislative action was called for; but as Parliament was not in session, the situation was met by the promulgation of an Ordinance by the President on the 21st September, 1966. The Bill seeks to replace the Ordinance.

NEW DELHI;
The 27th October, 1966.

G. S. PATHAK.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The new sub-section, proposed to be substituted for sub-section (1A) of section 108 by clause 2 of the Bill, provides *inter alia* that every instrument of transfer of shares shall be in the prescribed form and shall, before it is signed by or on behalf of the transferor and before any entry is made therein, be presented to the prescribed authority for the endorsement of the date of such presentation thereon. The word "prescribed" has been defined in the Companies Act as prescribed by rules. Therefore, the form of the instrument of transfer and the authority before whom it is to be presented will have to be prescribed by rules to be made by the Central Government. **These are matters of detail** and can better be provided for by rules. The delegation of the legislative power in this behalf is of a normal character.

BILL No. 73 OF 1966

A Bill to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around the Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good.

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short
title and
commen-
cement.

1. (1) This Act may be called the Metal Corporation of India (Acquisition of Undertaking) Act, 1966. 5

(2) It shall be deemed to have come into force on the 22nd day of October, 1965, except section 17 which shall be deemed to have come into force on the 13th day of September, 1966.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) “administrator” means an administrator appointed under section 13;

5 (b) “commencement of this Act” means the 22nd day of October, 1965;

1 of 1956.

(c) “company” or “the Metal Corporation of India” means the Metal Corporation of India Limited, being a company as defined in the Companies Act, 1956, having its registered office at Calcutta;

10 (d) “Tribunal” means the Tribunal constituted under section 11;

1 of 1956.

(e) words and expressions used but not defined in this Act and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

15

CHAPTER II

ACQUISITION OF THE UNDERTAKING OF THE METAL CORPORATION OF INDIA

3. On the 22nd day of October, 1965, the undertaking of the company shall, by virtue of this Act, be deemed to have been transferred to, and vested in, the Central Government.

Undertaking of company to vest in Central Government.

20 4. (1) The undertaking of the company shall be deemed to include all assets, rights, leaseholds (including mining leases, if any), powers, authorities and privileges and all property, movable and immovable, including lands, buildings, works, mines, workshops, projects, smelters, refineries, stores, instruments, machinery, locomotives, automobiles and other vehicles, mined or extracted zinc or lead ores, concentrates and metals, in process or in stock or in transit, cash balances, cash on hand, reserve fund, investments and book debts and all other rights and interests arising out of such property as were immediately before the commencement of this Act in the ownership, possession, 25 power or control of the company in relation to the undertaking, whether within or without India, and all books of account, registers, maps, plans, sections, drawings, records of survey and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then 30 subsisting of the company in relation to the undertaking.

General effect of vesting under section 3.

(2) All property included as aforesaid in the undertaking which has vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of a court restricting the use of such property in any manner shall be deemed to have been withdrawn. 5

(3) Subject to the other provisions contained in this Act, all contracts and working arrangements which are subsisting immediately before the commencement of this Act and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectually as if instead of the company the Central Government had been named therein or had been a party thereto. 15

(4) Subject to the other provisions contained in this Act, any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the company in relation to its undertaking may, as from such commencement, be continued and enforced by or against the Central Government as it might have been enforced by or against the company if this Act had not been passed, and shall cease to be enforceable by or against the company, its surety or guarantor. 25

Provisions
respecting
officers
and em-
ployees
of the
company.

5. (1) Every officer or other employee of the company (except a director or any managerial personnel specified in section 197A of the Companies Act, 1956, or any other person entitled to manage the whole or a substantial part of the business of the company under a special agreement) in the employment of the company immediately before the commencement of this Act shall, in so far as such employee is employed in connection with the affairs of the undertaking of the company, become as from such commencement, an officer or other employee, as the case may be, of the Central Government and shall hold his office by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held under the company if this Act had not been passed and shall continue to do so unless and until his employment in the Central Government is terminated or until his remuneration, terms and conditions are duly altered by the Central Government: 30 35 40

1 of 1956.

Provided that if the alteration so made is not acceptable to any such officer or employee, his employment may be terminated by the Central Government on payment to him by the Central Government of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees:

Provided further that nothing contained in this section shall apply to any officer or other employee who has, by notice in writing given to the Central Government within thirty days next following the commencement of this Act, intimated his intention of not becoming an officer or other employee of the Central Government.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the company shall not entitle any such officer or employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

6. Notwithstanding anything contained in any law for the time being in force, no director or managerial personnel specified in section 197A of the Companies Act, 1956, or other person entitled to manage the whole or a substantial part of the business and affairs of the company under a special agreement shall be entitled to any compensation against the company or the Central Government for the loss of office or for the premature termination of any contract of management entered into by him with the company.

7. (1) Where any property has vested in the Central Government under section 3, every person in whose possession or custody or under whose control the property may be, shall deliver the property to the Central Government forthwith.

(2) Any person who, on the commencement of this Act, has in his possession or under his control any books, documents or other papers relating to the company which have vested in the Central Government under this Act and which belong to the company or would have so belonged if the undertaking of the company had not vested in the Central Government shall be liable to account for the said books, documents and papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Government may specify in this behalf.

(3) The Central Government may take all necessary steps for securing possession of all properties which have vested in that Government under section 3.

Duty to
furnish
particu-
lars.

8. The company shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all the properties and assets (including particulars of book debts and investments and belongings) of the company at the commencement of this Act, all liabilities and obligations of the company subsisting at such commencement and also of all agreements entered into by the company and in force on such commencement including agreements, whether express or implied, relating to leave, pension, gratuity and other terms of service of any officer or other employee of the company under which, by virtue of this Act, the Central Government has, or will have, or may have, liabilities except such agreements as that Government may exclude from the operation of this section, and for this purpose, the Central Government shall afford the company all reasonable facilities.

Right of
Govern-
ment
to dis-
claim
certain
agree-
ments.

9. (1) Where it appears to the Central Government that the making of any agreement under which the company has or will have or may have liabilities was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, the Central Government may, within two years from the commencement of this Act, apply to the Tribunal for relief from the agreement and the Tribunal, if satisfied after making such inquiry in the matter as it thinks fit that the agreement was not reasonably necessary for the purposes of the activities of the company or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(2) All the parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

Compensation
for
acquisi-
tion
of under-
taking.

10. (1) The Central Government shall pay compensation to the company for the acquisition of the undertaking of the company and such compensation shall be determined in accordance with the principles specified in the Schedule and in the manner hereinafter set out, that is to say,—

(a) where the amount of compensation can be fixed by agreement, it shall be determined in accordance with such agreement;

(b) where no such agreement can be reached, the Central Government shall refer the matter to the Tribunal within a period of three months from the date on which the Central Government and the company fail to reach an agreement regarding the amount of compensation.

(2) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.

(3) The amount of compensation determined in accordance with the foregoing provisions shall be paid to the company in cash within a period of six months from the date of such determination:

Provided that if compensation is not paid within the period aforesaid, the Central Government shall pay interest on the amount of compensation at the rate of four per cent. per annum from the date of expiry of the said period.

CHAPTER III

TRIBUNAL

11. (1) The Central Government may for the purposes of this Act constitute a Tribunal which shall consist of a single person who is, or has been, or is qualified to be, a Judge of a High Court or of the Supreme Court.

Constitution of Tribunal.

(2) The Tribunal may choose one or more persons possessing special knowledge of any matter relating to any case under inquiry to assist the Tribunal in determining any question which has to be decided by it under this Act.

(3) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other material objects producible as evidence;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents.

(4) The Tribunal shall have power to regulate its own procedure and decide all matters within its competence, and may review any of its decisions in the event of there being a mistake on the face of the record or correct any arithmetical or clerical error therein but subject thereto, the decision of the Tribunal on any matter within its jurisdiction shall be final and conclusive. 5

CHAPTER IV

MANAGEMENT AND ADMINISTRATION OF THE UNDERTAKING

Formation of Government company for management of undertaking. 12. For the efficient management and administration of the undertaking of the company vested in the Central Government by virtue of this Act, that Government may form a Government company in accordance with the provisions of the Companies Act, 1956 and on the formation of such company, the undertaking, together with all its properties, assets, liabilities and obligations specified in sub-section (1) of section 4 and such other properties, assets, liabilities and obligations as may, after the commencement of this Act, be acquired or incurred for the purposes of the undertaking, shall, by virtue of this Act, stand transferred to, and vest in, that Government company. 10 15

Appointment of administrators. 13. (1) Pending the formation of the Government company referred to in section 12, the Central Government may appoint one, or more than one, administrator for the efficient management and administration of the undertaking. 20

(2) Such administrator or administrators shall, in the management and administration of the undertaking, act in accordance with such directions, if any, as may be issued by the Central Government in this behalf. 25

CHAPTER V

MISCELLANEOUS

Penalties. 14. (1) Any person who—

(a) having in his possession, custody or control any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government; or 30

(b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Act; or 35

(c) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by sub-section (2) of section 7 any document which may be in his possession, custody or control; or

5 (d) wilfully fails to furnish an inventory as required under section 8; or

(e) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be false or does not believe to be true,

10 shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within
15 a time to be fixed by the court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished:

Provided further that nothing contained in this section or any other provision of this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be
20 done by him before the 13th day of September, 1966.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.
25

15. No suit, prosecution or other legal proceeding shall lie against the Central Government or an administrator or an officer or other employee serving in connection with the affairs of the undertaking of the company for anything which is in good faith done or intended
30 to be done under this Act.

Protection of action taken under this Act.

16. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
Power to make rules.

(2) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made before each
35 House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the

rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

5

Certain
actions,
etc.,
deemed
to be
taken
under
this
Act.

17. Notwithstanding any judgment, decree or order of any court,—

(a) the Government company called the Hindustan Zinc Limited, having its registered office at Udaipur, formed under the Companies Act, 1956, in pursuance of section 12 of the Metal Corporation of India (Acquisition of Undertaking) Act, 1965, which has been declared to be unconstitutional and void, (hereinafter referred to as the said Act), shall be deemed to be and to have been formed under the Companies Act, 1956, in pursuance of section 12 of this Act; and the undertaking of the Metal Corporation of India together with all properties, assets, liabilities and obligations referred to in section 12 of this Act shall be deemed to have been transferred to, and vested in, the said Government company on the date of its formation;

10 1 of 1956.

44 of 1965.

(b) any rule, order or appointment purporting to have been made, any decision or direction purporting to have been given, any action or proceeding purporting to have been taken, or anything purporting to have been done under any provision of the said Act shall be deemed to be and to have been a rule, order or appointment made, decision or direction given, action or proceeding taken, or thing done under the corresponding provision of this Act.

15

25

Repeal
and
saving.

18. (1) The Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1966, is hereby repealed.

10 of 1966.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

30

THE SCHEDULE

(See section 10)

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING.

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Paragraph I.—The compensation to be paid by the Central Government to the company in respect of the acquisition of the undertaking thereof shall be an amount equal to the sum total of the value

of the properties and assets of the company as on the commencement of this Act calculated in accordance with the provisions of paragraph II less the sum total of the liabilities and obligations of the company as on such commencement calculated in accordance with
5 the provisions of paragraph III, together with interest on such amount calculated in accordance with the provisions of paragraph IV.

Paragraph II.—(a) The market value at the commencement of this Act—

- 10 (i) of any land or buildings;
(ii) of any plant, machinery or other equipment;
(iii) of any shares, securities or other investments held by the company;

(b) the total amount of the premiums paid up to the commencement
15 of this Act by the company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

20 (c) the amount of debts due at the commencement of this Act to the company, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

(d) the amount of cash held at the commencement of this Act by the company, whether in deposit with a bank or otherwise;

25 (e) the market value at the commencement of this Act of all tangible assets and properties other than those falling within any of the preceding clauses.

Paragraph III.—The total amount of liabilities and obligations incurred by the company in connection with the formation, management
30 and administration of the undertaking and subsisting immediately before the commencement of this Act.

Paragraph IV.—The interest referred to in paragraph I shall be on the amount mentioned in the said paragraph for the period commencing on the 22nd day of October, 1965, and ending with the 13th
35 day of September, 1966, calculated at the average bank rate during the said period.

STATEMENT OF OBJECTS AND REASONS

The Metal Corporation of India, Limited, a company as defined in the Companies Act, 1956 owned the Zawar lead-zinc mines in Rajasthan and the lead smelter at Tundoo in Bihar. It had undertaken to expand production of these mines and construction of a zinc smelter near Udaipur for producing electrolytic grade zinc and bye-products. However, for want of finances, the Corporation was not able to complete the project it had undertaken. Construction work had come to a standstill and the Corporation failed to meet its repayment obligations to the suppliers of machinery and others. As lead and zinc are essential raw-materials to the industry and are of considerable strategic importance, it was necessary in the public interest that the project undertaken by the Corporation should be completed as soon as possible. In the circumstances, and as at the time Parliament was not in session, the Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1965 (No. 6 of 1965) was promulgated by the President on the 22nd October, 1965 to provide for the acquisition of the undertaking of the Metal Corporation of India Limited for the purpose of enabling the Central Government in the public interest to exploit, to the fullest extent possible, zinc and lead deposits in and around Zawar area in the State of Rajasthan and to utilise those minerals in such manner as to subserve the common good. The Ordinance was later replaced by an Act of Parliament, namely, the Metal Corporation of India (Acquisition of Undertaking) Act, 1965 (No. 44 of 1965).

2. The vires of the said Act (44 of 1965) was challenged by the Metal Corporation of India and another in a writ petition in the High Court of Punjab. The High Court in its judgment delivered on 14.3.1966 declared the said Act to be violative of Article 31(2) of the Constitution because in its opinion the principles laid down in the Act could not ensure the owner just equivalent of the properties acquired. On an appeal preferred by the Union of India before the Supreme Court against the said judgment of the High Court, the Supreme Court, in its judgment on 5.9.1966, upheld the decision of the High Court and declared the said Act as unconstitutional.

3. As it was still necessary in the public interest to acquire the undertaking to ensure uninterrupted progress of capital works and their early completion and commencement of production from the project and the full development of lead-zinc deposits in the

Zawar area and as Parliament was not in session, an Ordinance, namely the Metal Corporation of India (Acquisition of Undertaking) Ordinance, 1966 (No. 10 of 1966) was promulgated by the President on 13.9.1966. In the Ordinance, the principles of compensation have been suitably modified to give effect to the judgment of the Supreme Court. The Bill seeks to replace the Ordinance and when enacted would ensure expeditious and full development of the only important indigenous source of lead and zinc.

NEW DELHI;

S. K. DEY.

The 20th October, 1966.

PRESIDENT'S RECOMMENDATIONS UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. 7 (8) /66-MIV, dated the 20th October, 1966 from Shri S. K. Dey, Minister of Mines and Metals to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the Metal Corporation of India (Acquisition of Undertaking) Bill, 1966, recommends consideration of the Bill by the Lok Sabha under clause (3) of article 117 of the Constitution.

FINANCIAL MEMORANDUM

1. *Acquisition and compensation.*—Clause 4 of the Bill describes the details of the undertaking transferred to and vested in the Central Government. The undertaking includes all assets, rights, leaseholds, property including lands, buildings, works, mines, workshops, projects, etc., cash balances, cash on hand, reserve funds and all borrowings, liabilities and obligations.

2. Clause 10 provides for payment of compensation for the acquisition of the above undertaking. The principles for determining the compensation payable are specified in the Schedule according to which the amount of compensation will be a sum equal to the difference between the market value as on the commencement of the Act of the assets and properties and the liabilities and obligations together with the interest on that difference calculated at the average bank rate for the period between the 22nd October, 1965 and the 13th September, 1966. The amount of compensation payable will be known after a complete inventory of all assets and liabilities is taken and their value determined in accordance with the Schedule.

It may, however, be mentioned that as on 31st March, 1965 (the latest date for which balance-sheet is available) the total paid up capital and the reserves and surpluses of the Company were of the order of Rs. 2·98 crores, and besides, the Company had taken secured loan of the order of Rs. 4·99 crores and unsecured loan of the order of Rs. 1·26 crores. It may be mentioned that since acquisition on 22nd October, 1965 up to 30th September, 1966, a sum of about Rs. 472 lakhs was spent towards the discharge of pre-acquisition liabilities.

3. Besides paying compensation to the Company, the Government will have to take over the liabilities and obligations incurred by the Company in connection with the management and administration of the undertaking and subsisting immediately before the acquisition by the Government.

4. *Administration.*—Clause 5 of the Bill provides for the employment by the Central Government of the erstwhile employees of the Company. An expenditure of about Rs. 1,36,000 was incurred as the pay and allowances of the staff and officers of the Company till

the formation of the Government Company, namely, Hindustan Zinc Limited, on 10th January, 1966. Besides, expenditure was also incurred, during the said period, towards (i) the salaries and wages of the staff employed in the mines, smelters and other works, (ii) arrears of wages, salaries and bonus, and (iii) excise duties, etc. The total expenditure incurred between 22nd October, 1965 and 10th January, 1966 was about Rs. 21·2 lakhs.

5. Clause 13 of the Bill provides for the appointment of one or more administrators for the management of the undertaking. An administrator was appointed and an expenditure of about Rs. 13,000 was incurred on his account between 22nd October, 1965 and 10th January, 1966.

6. *Formation of Company.*—Clause 12 of the Bill provides for the formation of a Government Company under the Companies Act, 1956 for the efficient management and administration of the undertaking. A Government company, namely, Hindustan Zinc Limited was formed on 10th January, 1966. An expenditure of about Rs. 77,000 was incurred in connection with the formation of the Company and a sum of Rs. 463·50 lakhs has been invested in the share capital of the Company and a further sum of Rs. 265·00 lakhs has been advanced as loan up to 15th October, 1966.

7. *Tribunal.*—Clause 11 of the Bill provides for the appointment of a Tribunal consisting of a single person who is or has been or is qualified to be a Judge of a High Court or of the Supreme Court. The Tribunal is also empowered to choose one or more persons to assist it in determining any question which has to be decided by it under the Bill. The Tribunal will have the powers of a Civil Court.

The Tribunal will be appointed if no agreement can be reached on the compensation to be paid. The constitution of the Tribunal and its working will involve some expenditure. When the Tribunal is constituted, expenditure of about Rs. 6,000 per month will be incurred on the salary of the Judge and his staff and contingencies. Assuming that the Tribunal will be required for a period of six months, the total expenditure may amount to about Rs. 36,000.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act and all these would pertain to matters of detail or procedure. The delegation of legislative power involved is of a normal character.

BILL No. 72 OF 1966

A Bill further to amend the Coal Bearing Areas (Acquisition and Development) Act, 1957.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Coal Bearing Areas (Acquisition and Development) Amendment Act, 1966.

Short title
and
commen-
cement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

20 of 1957. 2. In the Coal Bearing Areas (Acquisition and Development) Act, 1957 (hereinafter referred to as the principal Act), in section 28.—

Amend-
ment of
section 28.

10 (a) in sub-section (3), for the portion beginning with “in respect of such land;” and ending with “or any part thereof,” the following shall be, and shall be deemed always to have been, substituted, namely:—

15 “in respect of such land or of any rights in or over such land; and the Central Government may at any time make a declaration under section 9 of this Act in respect of the land or any part thereof or any rights in or over such land or part.”;

(b) after sub-section (3), the following sub-section shall be, and shall be deemed always to have been, inserted, namely:—

“(3A) Where in respect of any land covered by any notification issued under section 4 of the said Act, no objection has been preferred under section 5A thereof within the period specified in that section, then it shall be deemed that a notification had been issued under section 7 of this Act in respect of such land or of any rights in or over such land and that no objection to the acquisition of the land or any rights in or over the land had been preferred under section 8 of this Act and accordingly the Central Government may at any time make a declaration under section 9 of this Act in respect of the land or any part thereof or any rights in or over such land or part.”

Valida-
tion of
certain
acqui-
sitions.

3. Notwithstanding any judgment, decree or order of any court, every acquisition of land or the rights in or over land made by the Central Government in pursuance of the notifications of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel) Nos. S.O. 1759 and S.O. 25, dated the 7th August, 1958, and the 22nd December, 1959 respectively, made under section 9 of the principal Act, shall be, and shall be deemed always to have been, as valid as if the provisions of section 28 thereof as amended by this Act were in force at all material times when such acquisition was made and shall not be called in question in any court of law on the ground only that before issuing such notifications no notification was issued under section 7 of the principal Act in relation to the land or rights in or over such land covered by the said notifications Nos. S.O. 1759 and S.O. 25.

STATEMENT OF OBJECTS AND REASONS

Before the enactment of the Coal Bearing Areas (Acquisition and Development) Act, 1957 which came into force on the 12th June, 1957, proceedings for acquisition of land for the purpose of prospecting coal seams for the development of collieries to be owned and worked by the Central Government used to be taken under Part II of the Land Acquisition Act, 1894. While under sub-section (1) of section 28 of the 1957 Act notifications issued under section 4 of the 1894 Act are treated as notifications issued under section 4 of the 1957 Act, sub-section (3) of the said section 28 provides that any objection preferred under section 5A of the 1894 Act shall be deemed to be an objection preferred under section 8 of the 1957 Act and might be disposed of as if the objection had been made in relation to a notification issued under section 7 of the 1957 Act so that the Central Government might at any time make a declaration under section 9 of the 1957 Act in respect of the land covered by such notification.

2. In the acquisition proceedings in respect of two notifications (No. S.O. 1759, dated the 7th August, 1958 and No. S.O. 25, dated the 22nd December, 1959) out of the six notifications pending at the commencement of the 1957 Act, no objections had been filed under section 5A of the 1894 Act. In a writ petition before the High Court of Madhya Pradesh wherein the validity of the notification No. S.O. 1759, dated the 7th August, 1958 was challenged, the acquisition proceedings were declared illegal by that High Court on the ground that the notification issued under section 9 of the 1957 Act therein was not preceded by a notification under section 7 of that Act giving notice of the intention to acquire the lands concerned. While section 28 of that Act provides for a case where objections have been filed under section 4A of the 1894 Act, no provision exists therein to cover a case where no such objection had been filed and, therefore, the provisions of the said section 28 could not save the proceedings from being successfully challenged.

3. It is therefore proposed to make suitable amendments in the Act—

(a) providing that in a case where no objections under section 5A of the 1894 Act had been filed, action under section

9 of the 1957 Act could be taken as if a notification under section 7 of that Act had been issued and no objection under section 8 thereof had been preferred;

(b) providing for validation of the acquisitions made under the aforesaid notification No. S.O. 1759, dated the 7th August, 1958 and under a similar notification No. S.O. 25, dated the 22nd December, 1959, because the National Coal Development Corporation Limited in which the lands, after acquisition, had been vested could not work the lands as a result of the High Court decision and the coal production programme of the Government was seriously hampered.

4. Opportunity has also been taken to make a slight verbal alteration in sub-section (3) of section 28 to bring it in line with the wording of sections 7 and 9.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 19th October, 1966.

S. K. DEY.

S. L. SHAKDHER,
Secretary.